HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION No. 1679 of 2007

DATED: 1-02-2007

Between:

Anamchinni Anantha Ramaiah

...Petitioner

and

The Government of India, rep. by its
Under Secretary, Ministry of Home Affairs,
New Delhi and others

...Respondents

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 1679 of 2007

ORAL ORDER:

The writ petition is misconceived.

It is directed against the proceedings dated 1-12-2006 issued by the 1st respondent calling upon the 2nd respondent to institute criminal proceedings against the concerned offenders.

The petitioner claiming to have been underground in Mangolu border Camp, sought Freedom Fighters Pension. His application was supported by Personal Knowledge Certificate (PKC) issued by
Sri Kondapally Satyanarayan Reddy, Central Freedom Fighter Pensioner and Co-Prisoner's Certificates issued by Sri Kapa Subbaiah and Kammakomati Veeraiah, Central Freedom Fighter Pensioners. On receipt of the recommendation from the State Government, Central Samman pension was granted to the petitioner.

While so, the 3rd respondent, by a letter dated 3-9-2006 informed the 1st respondent that there is material which places serious suspicion on the petitioner's age and therefore his ineligibility to have been underground during the relevant period and therefore, not entitled to the Freedom Fighters Pension. The 3rd respondent requested cancellation of Central Samman Pension granted in favour of the petitioner. On the basis of the recommendation and after preliminary enquiry, the 1st respondent by an order dated 1-12-2006 suspended the provisional Pension sanctioned to the petitioner by the proceedings dated 12-9-2006 and has also passed another order of even date

directing action for prosecution of all the concerned guilty.

The petitioner would submit that there is adequate material to show that he was eligible and of appropriate age to have been underground and that the 1st respondent has irrationally concluded that the petitioner has obtained Freedom Fighters Pension on the basis of false representation and has directed prosecution. Interdiction of the prosecution is the substantive purpose of this writ petition.

None of the contentions pleaded or urged by the learned counsel for the petitioner commend acceptance by this Court. On a *prima facie* satisfaction that the petitioner obtained a Freedom Fighters Pension on the basis of incorrect material and unsubstantiated facts, the 1st respondent has directed the other respondents to initiate proceedings for prosecution of the guilty. The question whether the petitioner submitted a false application to obtain the Freedom Fighters Pension is an aspect that will have to be identified during the investigation leading to the prosecution. The eventual guilt or otherwise of the petitioner would have to be established by relevant facts and admissible evidence before the court of competent jurisdiction. The mere process of prosecution of the petitioner is not *per se* invalid as to warrant a prohibitory order under Article 226 of the Constitution of India. It is not the province of this Court under Article 226 of the Constitution and at this stage of the matter to arrive at a preliminary satisfaction that there is no *prima facie* material to initiate prosecution against the petitioner.

There are no merits in this writ petition. The writ petition is accordingly dismissed at the stage of admission. No order as to costs.

GODA RAGHURAM, J

1-02-2007
GRR